IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 101 OF 1998

1. Suresh Dashrath Taral,
   Resident of Bidri,
   District Kolhapur

2. Shri Bajarang Babu Patil
   R/o Bidri, District Kolhapur
   (At present both are in
   Custody.) ..Applicants

V/s

The State of Maharashtra ..Respondent.

Mr. V.S. Kapse, Advocate for the applicant.
Mr. U.V. Nikam, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 6TH MARCH, 2007.

ORAL JUDGMENT

. The original accused Nos. 6 and 7 have preferred this revision application against the order of conviction and sentence passed for the offence punishable under section 498A, and 498D r/w section 34 of Indian Penal Code.

2. The prosecution case, in brief, is that P.S.I Sonawane of Radhanagari Police Station got information on 13/12/1989 at about 1.35 a.m. that at village Talashi in Taluka Radhanagari, in one house the

counterfeit notes were being prepared. On the basis of that information, he with his police staff and two panch witnesses raided the house owned by P.W.1 Parvati Shankar Salunke. It was about 5 A.M., when the police party along with the panchas entered into that house. In all seven persons including accused Nos. 6 and 7 were sitting in one room around the material and instruments, which could be used for counterfeit currency-notes. The material consists of bottles containing natural colours, some chemicals, electric machines, Zari wire, white plain papers of size of the currency note of Rs. 100/-, cotton and plastic hand gloves, electric coil, thread etc. The property also included some currency notes, and some counterfeit notes and some partly prepared counterfeit notes. Besides that, during the personal search of those persons certain currency notes were found. One Ambassador Car, which was allegedly parked out side and which was allegedly used by the accused persons, was also seized. All that property was seized under the panchanama and same was sealed. All the seven persons were arrested and PSI Sonawane, himself lodged F.I.R. and registered Crime No.180/89 under Sections 489A, 489B, 489D, 489E, 420 and 120A r/w section 34 of Indian Penal Code. It is

alleged that they were all participating in the process of making counterfeit notes. After investigation charge-sheet was filed and all 8 accused persons, including driver of the car, were put-up for trial.

3. After the trial,the learned trial court convicted accused Nos. 1 to 7 for the charges under section 489A, 489C, 489D, 489E and 120A of Indian Penal Code. They were acquitted of charge under Section 420 r/w section 34 of Indian Penal Code. Accused No.8, who was a driver of the car and who was present in the car out side of the room, was acquitted of all the charges. The convicted accused persons preferred appeal. It appears that three appeals preferred by four of the accused persons were heard together and by common judgment dated 24/4/1998, the learned Additional Sessions Judge, Kolhapur, partly allowed the appeal. He set aside the conviction for the offences punishable under Section 489C and 489E. However, he maintained the conviction and sentence only for the offence punishable under section 489A and 489D IPC. The trial Court had awarded sentence of R.I. of three years and fine of Rs.1000/- for the charge under section 489A and R.I. for three years and fine of Rs. 500/- for the charge

under section 489D. The Appeal No. 5/1996 was filed by accused Nos. 6 and 7, which was partly allowed by the aforesaid common judgment. Being aggrieved by the order of conviction and sentence for the offence punishable under section 489A and 489D r/w section 34 of IPC and dismissal of their appeal to that extent, the applicants have preferred the present revision application.

4. Mr. Kapse, learned Counsel for the applicants, has taken me through the evidence in great details, in support of his contention that the evidence before the Court was not sufficient to enter the Judgment and order of conviction and sentence even for charges under section 489A and 489D. He also contended that P.W. 1 Parvati Salunke was owner of the house, which was raided and where the incriminating material was allegedly found but she was not prosecuted and was made a prosecution witness of the case. According to him, when the owner of the house in which, all the material was found, was not prosecuted, there could be no justification to proceed against the remaining persons. Further he contends that the material, which was found, was not sufficient to prove that the accused persons had actual counterfeited the currency notes or that said material

was sufficient to counterfeit currency notes.

5. On the other hand, Mr. Nikam, learned APP contended that the material seized from the spot clearly shows that some counterfeit notes were already prepared and some were in the process of being prepared. He further contended that the trial court and appellate Court have minutely considered the evidence led by the prosecution and after analysing the evidence they came to the conclusion that the present applicants have committed the offence under Section 489A and 489D. According to him, the Revisional Court is not expected to reappreciate the whole evidence as if it is sitting in appeal. According to him, the High Court, while exercising revisional jurisdiction, is expected only to examine the record for the purpose of satisfying itself as to correctness, legality or propriety in findings or the sentence or the order recorded, or passed and as to the regularity of proceeding of such inferior Court. According to him, the proceeding of the trial Courts below and the orders passed by them have to be perused within the limits prescribed under Section 397 Cr.P.C.

6. I have carefully perused oral and documentary

evidence placed before the trial Court and it may be stated that P.W. 1 Parvati Salunke, who was owner of the house, was not present in the room, where the alleged offence was committed. It appears that accused No.7 had illicit relations with P.W.1 Parvati and he used to stay in the same house. Therefore, P.W.1 Parvati was inclined not to support the prosecution case. She was not present, where the incriminating articles were found and where accused Nos 1 to 7. were counterfeiting the currency notes or attempting to counterfeit. Possibly because of these reasons Parvati was not prosecuted. In such circusmtances, merely because Parvati was not prosecuted, other accused could not be required. They have to be dealt with as per merits of the case against them.

7. P.W. 3 Pandurang More, was one of the panch witnesses. He did not support the prosecution and was declared hostile. P W. 6 Police Inspector Dattatraya Sonawane, who was a raiding officer and P.S.I. at Radhanagar Police station during the relevant period, P.W. 4 Dattatraya Jadhav, who was another panch witness and P.W. 2 Head Constable Baburao Patil, who was one of the members of raiding party, fully supported the

prosecution case. It will not be necessary to repeat the whole prosecution story and their evidence. Suffice it to state that the panchanama Exh.57, which was prepared on the spot on 14/12/1989 from 5 A.M. to 7 A.M., reveal that the police party along with the panchas went to the said house and all the 7 accused persons, including the present applicants, were present in one room. They were sitting in the room and around the material like electrical machine having buttons and switches of different colours showing the heat light etc., 10 bottles containing different natural colours, 11 bottles containing some chemicals, Some bottles were partly full and in some small quantity of material of chemicals was remained. Bottle containing gum, a plastic bag containing Washing powder, Plastic bag containing Hypo, 4 rectangular glasses, plain papers of the size of currency notes of Rs. 100/-, some of which were loose and some were in the bundles, zari thread, black electrical coils, some electric wire, one currency note of Rs. 100/-, four fake currencies, four partly prepared currency notes having the numbers of genuine notes and having reverse impression of the same and some other currency notes were also found there. All these articles were duly seized and were sealed under the

panchanama.

8. Almost immediately the muddemal property was referred to C.A. It was carried by P.W. 5 Ramchandra Chavan from the police station along with a covering letter from PSI. Exh.59 is covering letter showing description of the property, which was sent to C.A. and as per the evidence of P.W. 5 Ramchandra Chavan, he had taken the property to C.A. in the same condition in which it was handed over to him. P.W. 7 Shankar Taware was the Assistant Director of Forensic Science Laboratory, Bombay and he also proved that the said articles were received in sealed condition along with covering letter. He himself opened the said articles and carried out the laboratory tests on the said articles with the help of chemicals, which were seized from the spot. He tried to find out whether it was possible to prepare the counterfeit currency notes. He deposed that the attempt was successful and his evidence shows that Exhs. 14, 18,19, 20 contain iodine in alcohol, while Exhs. 16, 15, 18, and 21 contain concentrated Nitric Acid and Exh. 19 and 22 contain phenol, Exh. 23 was fountain pen black ink. and Exh. 26 contains small black coloured paper pieces. Nitric

acid was detected on black paper sheets in Exh.28. Exh.31 contains sodium bicarbonate with green coloured particles. His evidence reveals that Exh.34 and 36, were contact reverse impression of currency notes, which could be obtained by using the above referred chemicals and white papers Exh. 27. Contact reverse impression at Exh.34, was of the currency note Exh.33, while Exh. 36 and 37 were contact revers impressions of currency note Exh. 38. I find that the evidence of P.W.7 Shankar could not be shattered in the cross-examination He has also given C.A. Report Exh.66 giving all the details about the property, which was received and results of analysis of the same.

9. From the evidence on record, there remains no doubt that chemicals, white papers and other materials were found in possession of all the seven accused persons in the said house and the said material could be used for the purpose of counterfeiting the currency-notes. Thus, the evidence on record clearly shows that partly counterfeit currency-notes, having the contact reverse impression of the genuine notes were also found on the spot, which shows that the process of counterfeiting currency-notes was in progress and when

the police raided, this work was partly done and was in progress.

10. The learned Counsel for the applicant vehemently contended that there is no evidence to show that the present applicants were playing any role in the commission of the said offence. It may be noted that as per the evidence, PSI Dattatraya Sonawane got the information at 1.30 a.m. and immediately he arranged for a raid. He raided the house and found the accused person sitting around the above referred material, it was 5 a.m. At such odd hour, all these persons were sitting together with the material, which could be used for counterfeiting currency-notes and some partly counterfeit currency-notes, inference could be drawn that not only they had knowledge but also intention to counterfeit currency-notes. Mr. Kapse, learned Counsel for the applicants vehemently contended that no counterfeit notes were found on the spot and only on the basis of some material, which could be used for the purpose of counterfeiting currency-notes, it cannot be held that the accused persons, and particularly the present applicants, had committed the offence punishable under Section 489A or 489D.

11. 489A IPC reads as follows;-

> *"Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."*

From the language of section itself, it is clear that a person is liable to be convicted under this section not only when he had actually counterfeited the currency-notes but also when knowingly he performs any part of process of counterfeiting any currency-notes or bank notes. Even though when the police party raided house, fully counterfeit currency-notes were not found but, as pointed out above, the process of counterfeiting of the currency-notes was in progress and presence of the accused including the present applicants at such odd time and such place clearly indicates their knowledge about the same. Section 489 D provides for punishments to any person, who makes or performs any part of the process of making or buys or sells or disposes of, or has in his possession, any machinery, instruments or

material for the purpose of being used or knowing or having reason to believe that it is intended to be used for forging or counterfeiting any currency-note. The present applicants along with others were found in possessions of the instruments and materials, which could be used and each of them had knowledge or at least had reason to believe that the same was intended to be used for forging or counterfeiting the currency-notes. Therefore, the offence under Section 489D I.P.C. is also proved.

12 The learned Counsel for the applicants placed reliance upon **Abdul Raheman V. Emperor 1911 Cr.L.J. Vol.XII, 377** to support his contention that merely because some material, which could be used for counterfeiting the notes was found, conviction cannot be sustained. In that matter it appears that no expert was examined on behalf of the prosecution to prove that the machinery and material was sufficient for counterfeiting notes. He also relied upon **Khadin Hussain V. King Emperor, AIR 1926 Lahore 22**, in that case also it was found that dies were found incapable of striking a complete coin. In my opinion the both these authorities are not applicable to the facts of the present case. In

the present case, not only sufficient material was seized but an expert was also examined and he proved that the said material was sufficient to counterfeit currency-note.Finding of contact reverse impressions of two currency notes goes to shows that the work of counterfeiting the notes was in progress **In K. Hasim V. State of Tamil Nadu, 2005 CRI L.J. 143,** the Supreme Court observed as follows about section 489A and 489D in 41 and 44:-

> *" 41. Section 489A not only deals with complete act of counterfeiting but also covers the case where the accused performs any part of the process of counterfeiting. Therefore. if the material shows that the accused knowingly performed any part of the process of counterfeiting, Section 489A becomes applicable."*
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> *" 44. The wording of Section 489D is very wide and would clearly cover a case where a person is found in possession of machinery, instrument or materials for the purpose of counterfeiting currency notes, even though the machinery, instruments or materials so found were not all the materials particulars required for the purpose of counterfeiting."*

This authority of the Supreme Court supports the view taken by me about the facts of the present case.

13. It is now well settled legal position that when the trial Court and the appellate Court have given concurrent findings about the facts and have come to the conclusion that the offence was committed by the accused the High Court, in revisional jurisdiction, is not expected to minutely analysis and reappreciate the whole evidence again as if it is sitting in appeal. Merely because there may be minor and inconsequential discrepancies or omissions in the evidence, the prosecution evidence cannot be discarded. Having considered the prosecution case and the evidence placed on record, I am satisfied that there is no fault in the approach and findings of the Courts below in respect of the offence punishable under Section 489A and 489D of IPC. There is no material in the present revision and it calls for no interference in the impugned order of conviction and sentence.

14. In the result the revision application stands rejected. The applicants shall surrender before the trial Court within 4 weeks to undergo the sentence.

(J.H. BHATIA, J.)